IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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CIVIL SECOND APPEAL No. 202 of 2006

MST.JATTON & ANR.
V/S
CHAND KHAN

Mr. JITENDRA OJHA, for the appellant / petitioner

Date of Order : 18.12.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

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Heard learned counsel for the appellant and perused the judgment.

Even on the statement of the defendant herself it has been found that she is a tenant, inasmuch as, she has admitted that her husband has been paying rent till his death. It has not been shown that after death of the appellant's husband she acquired title in the property.

In that view of the matter, I do not find any error in passing the impugned decree. Thus, there is no force in the appeal and the same is, therefore, dismissed summarily.

At the request of the learned counsel for the appellant, the appellant is given one year' time to vacate the suit premises on the condition that the defendant gives an undertaking before the learned trial court within one month from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff and that during this

period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today and shall further continue to deposit amount equal to the monthly rent by way of damages for use and occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above conditions, the respondent will become automatically entitled to execute the decree forthwith.

( N P GUPTA ),J.

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